

SENATE BILL REPORT

ESHB 1453

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 20, 2008

Title: An act relating to changes in the point of diversion under a water right.

Brief Description: Regarding points of diversion under a water right.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Grant, Haler, Moeller, Hankins and Linville).

Brief History: Passed House: 2/01/08, 96-0.

Committee Activity: Water, Energy & Telecommunications: 2/20/08 [DP].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Hatfield, Holmquist, Morton and Regala.

Staff: Karen Epps (786-7424)

Background: A water right is appurtenant to the land or place the water is used. Certain elements of the water right may be modified with the approval of the Department of Ecology (Ecology). Such a modification is called a transfer, change, or amendment of the right.

If the transfer involves surface water supplied by an irrigation district, and the transferred water remains in the district, the transfer needs to only be approved by the irrigation district. Other transfers must be approved by Ecology. A modification cannot be approved if it would injure or be detrimental to existing water rights. Making such a modification does not alter the seniority date of the right.

Water users may make a seasonal or temporary change of point of diversion or place of use of water when the change can be made without detriment to existing rights. Such a seasonal or temporary change requires the permission of Ecology or the local water master. With such approval, water users who own the land to which the water rights are attached may also rotate the use of the water when the rotation can be accomplished without detriment to other existing water rights.

Ecology may allow modification of the point of diversion to a downstream intake structure when a modification will provide both environmental benefits and water supply benefits. The structure must also be located downstream, have an existing approved intake structure with

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capacity to transport the additional diversion, and have the same ownership, purpose of use, season of use, and place of use.

Summary of Bill: Ecology may approve any application from a permit to change the point of diversion to an approved intake structure located in the same pool of the main stem of the Columbia and Snake rivers, if the ownership, purpose of use, season of use, and place of use of the permit remain the same. Ecology may not approve a change in the point of diversion if it will result in a negative impact on fish habitat or archeological sites.

Prior to approving the point of diversion transfer, Ecology must provide a 30 day consultation with interested government agencies, including tribal governments, regarding the requested transfer and its potential to affect instream resources in the Columbia River. Ecology will report to the Legislature on the implementation by January 10, 2010.

A pool is any surface water reservoir where water is collected and stored for subsequent beneficial use. The main stem of the Columbia and Snake rivers includes the area from the Bonneville Dam to the upper limits of the pool behind the Chief Joseph Dam on the Columbia River, and from the confluence of the Snake River and the Columbia River to the upper limits of the pool behind the Ice Harbor Dam.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute Bill: PRO: This bill allows a water right owner to move a pump station within a pool. The city of Richland had some changes in development that required moving the point of withdrawal, and this bill would simplify that process. This bill has been carefully negotiated between the stakeholders. Ecology must determine any negative impacts on fish habitat or archaeological sites. Ecology will provide a 30-day consultation with interested state agencies and tribal governments before approving a change of the point of diversion.

Persons Testifying: PRO: Pat Boss, Columbia Snake River Irrigators Association, Evan Sheffels, Department of Ecology.